

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1 – HB 142

April 8, 2015

SUMMARY OF ORIGINAL BILL: Codifies a new procedure by which the Governor will appoint appellate judges for a full term or to fill a vacancy. The appointed individual will be subject to confirmation by the General Assembly. Appellate judges will serve an eight-year term, at the end of which the judge will be subject to retention in a regular August election. If appointed to fill a vacancy, the appellate judge will serve until the next regular August election, unless appointed less than 30 days before the next regular August election, in which case the appointee will fill the vacancy until the regular August election in the next calendar year.

Creates a new special continuing committee within the General Assembly, the Judicial Confirmation Committee. The committee will be composed of 14 members of the General Assembly, including the chairs of the Senate Judiciary Committee, the House Civil Justice Committee, and the House Criminal Justice Committee.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$4,700/Each One-Day Meeting

SUMMARY OF AMENDMENT (006094): Deletes all language after the enacting clause.

Codifies a new procedure by which the Governor will appoint appellate judges for a full term or to fill a vacancy. The appointed individual will be subject to confirmation by the General Assembly. Appellate judges will serve an eight-year term, at the end of which the judge will be subject to retention in a regular August election. If appointed to fill a vacancy, the appellate judge will serve until the next regular August election, unless appointed less than 30 days before the next regular August election, in which case the appointee will fill the vacancy until the regular August election in the next calendar year.

Judicial confirmation will occur via joint convention of the General Assembly within 60 days of (1) the date written notice of the appointment is received from the Governor if the General Assembly is in its annual legislative session when the notice is received; or (2) the date the next annual legislative session is convened if the general assembly receives written notice while it is not in its annual legislative session.

The chairperson of the appropriate standing committee to which the governor's notice is referred may conduct a hearing, vote to confirm or reject the appointee, and submit a written report of the action taken to the applicable clerk.

During the joint convention, the votes of each house shall be made and tabulated separately. The governor's appointee will be confirmed unless both houses vote by a majority of each house to reject the appointee.

A judicial appointee is confirmed by default if the General Assembly fails to confirm or reject within 60 days of the applicable dates outlined above.

Creates a trial court vacancy commission which would be similar to the former judicial nominating commission but would assist the Governor in appointing individuals to fill vacancies in trial courts rather than appellate courts.

The commission will consist of 17 members, who will serve without compensation but may be reimbursed for travel expenses.

Requires the Administrative Office of the Courts (AOC) to pay or reimburse the necessary expenses authorized or incurred by the trial court vacancy commission.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – Exceeds \$13,000

Assumptions for the bill as amended:

- The bill as amended does not require a joint convention of the General Assembly to be convened any time outside of the General Assembly's annual legislative session.
- The bill authorizes the chairperson of the appropriate standing committee to which the governor's notice is referred to conduct hearings, but it is assumed that any hearing conducted under this provision will occur during the regular annual session.
- The bill as amended will not require additional per diem or travel to be paid to the members of the General Assembly.
- The standing committee of the General Assembly to which the appointee is referred may conduct an independent investigation of the appointee and may request the Tennessee Bureau of Investigation (TBI) to run a background check. According to the Legislative Administration, the average cost of a TBI background check is \$41. It is assumed that any background check requested by the standing committee will not result in a significant increase in state expenditures and can be accommodated within existing resources.
- According to the Secretary of State, the bill will not result in an increase in election costs as the retention elections will be conducted with other regular August elections.
- It is assumed that the trial court vacancy commission will incur similar expenses as the judicial nominating commission.
- Before it expired in 2012, the Judicial Nominating Commission incurred expenditures equal to \$12,906.36.
- It is assumed that the newly created commission's expenditures will exceed \$13,000 in FY15-16 and in subsequent years.

- The AOC is directed to provide assistance to the commission. The AOC confirms that the bill will not significantly impact their operations as the AOC provided assistance when the judicial nominating commission was still in existence.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, appearing to read "Jeffrey L. Spalding". The signature is fluid and cursive, with the first name "Jeffrey" and last name "Spalding" clearly distinguishable.

Jeffrey L. Spalding, Executive Director

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